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IN THE HIGH COURT OF JUDICATURE AT BOBBY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 4844 OF 2007

Jaid Samru, since deceased
through legal heirs
Smt. Saulat P. Samru & Ors. Petitioners

Vs.

Mohd. Kalim A. Wahid Respondent

Mr. I. R. Kulkarni, advocate for petitioners.

Mr. Y. M. Pendse, advocate for respondent.

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CORAM: Smt. NISHITA MHATRE, J.

DATE : OCTOBER 24, 2007.

ORAL JUDGMENT :

1. The petitioners are challanging the order passed by the Labour Court in Application (IDA) No. 481 of 1997. The Labour Court has held that the applicant is entitled to an amount of Rs.1,54,500/- from the opponents i.e. petitioners herein, for over time wages, leave wages and bonus for the period 1991-1996. The Labour Court has considered the evidence on record and held that the workmen were required to work from 7 a.m. to 7 p.m. each day. This conclusion has been arrived at, on the basis of the inspection report

of the Govt. Labour Officer and Inspector under the Minimum Wages Act. This Officer was examined in Court. In his cross examination he has reiterated that the workmen employed by the petitioner were required to work from 7 a.m. to 7 p.m. each day. The Labour Court has therefore, found that the workmen are entitled to overtime wages for the period they were required to work beyond 8 hours in a day.

2. The Labour Court has, on the basis of the evidence on record, found that leave wages were not paid to the workmen from 1991 to 1996. The bonus at the rate of 8.33% which is the statutory minimum bonus, has also been directed to be paid to the respondent workmen. In my opinion, there is no error committed by the Labour Court while granting the amounts to the respondent workmen.

3. Mr. Kulkarni, counsel appearing for the petitioner submitted that in a similar case, where over time wages were awarded by the Labour Court under S. 33C(2) of the Industrial Disputes Act 1947, Letters Patent Appeal preferred by the employer has been admitted.

4. In my opinion, the facts in that case are on different footing. In the present case, it has been found that the workmen had in fact worked beyond the 8 hours on each day, and therefore, the claim has been granted. It is well settled that when employer disputes the amount which should be paid for over time wages, an incidental inquiry can always be made by the Labour Court under S. 33C(2) of the Act. The dispute here is not whether the employees have a right to claim over-time wages, but the amount of over time wages which are payable to them. Once, it has been established that the employees have worked for more than 8 hours in a day, their right to claim over-time has been established. There can be no dispute about entitlement to over-time wages, as this has been ascertained by the Labour Court by conducting an industrial enuiry. The Labour Court under S. 33C(2) can always decide and compute the amount which is payable to the workmen.

5. In my opinion, the Labour Court has not exceeded its jurisdiction vested under S. 33C(2) of the Act. In the result, petition fails and is rejected.

Sd/-
(Smt. NISHITA MHATRE J.)